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WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE

Preparatory Committee
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# REVIEW OF REPORTS, STUDIES AND OTHER DOCUMENTATION FOR THE PREPARATORY COMMITTEE AND THE WORLD CONFERENCE

Contribution*/ submitted by the Human Rights Advocates

The secretariat has received the following contribution which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*/ This contribution is issued, unedited, as received from the submitting non-governmental organization.

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1. Human Rights Advocates submits this report to the Second Session of the Preparatory Commission for the World Conference Against Racism, Racial Discrimination, Xenophobia and other Related Intolerance (WCAR), in order to highlight the effects of racism, discrimination and xenophobia on disenfranchised peoples of the world, and in particular the effect that racism is having on one of the world's largest disenfranchised populations, the Roma.

2. In the Political Declaration adopted by the Members of Council of Europe, in the October 2000 Strasbourg preparatory meeting for the WCAR, it was noted that "[The] Roma/Gypsies suffer throughout Europe from persisting prejudices, are victims of a racism which is deeply-rooted in society, are the target of sometimes violent demonstrations of racism and intolerance and [sic] their fundamental rights are regularly violated or threatened."

3. For centuries, the Roma have been subjected to racism, racial discrimination, and xenophobia by governments and citizens of Europe and the Americas. From their enslavement in the early 1300's, to the near destruction of their populace by Nazism, the Roma have persevered through centuries of violence and cruelty aimed at destroying the cultural essence of their being. The Roma are consistently deprived of their rights as citizens, and thus due to this disenfranchised status are subjected to numerous human rights violations including overt acts of racist violence as well as discrimination in the political, educational and legal systems of Europe.

4. The ethnic "distinctions, exclusions and restrictions" placed upon the Roma, have diminished their ability to freely exercise their most basic fundamental human rights and freedoms, i.e. the right to citizenship, to equal education, and the right to equal justice and thus are clearly in violation of Article 1 of the International Convention on the Elimination of All Forms of Discrimination [CERD].

5. Arguments against Romani rights to citizenship have been based upon historically-universal perceptions of the Roma as a transient people, not having the

necessary residential and "ethnic" ties needed to become citizens. However, Article 24(3) of the ICCPR recognizes the right of every child to acquire citizenship and Article 5 (d) (iii) of CERD recognizes a general right to nationality. In addition, both Article 12(1) of the International Covenant on Civil and Political Rights (ICCPR) and Article (5) of CERD, recognize the right to freedom of movement and residence within a state as well as the right to leave any country.

6. Due to increasing racism and xenophobia, the Roma have been forced to maintain their "traveling" existence and have had difficulty meeting the residency requirements of many governments. For example, when the former Soviet Union dissolved, residency laws and regulations in Eastern Europe, such as the 1993 Act on Czech Nationality, were drafted. This Act deprived many Roma of their Czech citizenship because of their movement throughout the once unified Czechoslovakia. The Act required proof of residency in the Czech half of Czechoslovakia and a clean criminal record for the previous five years. However, many Roma who should have qualified as Czech citizens could not because of their inability to show proof of residency in the Czech side or a clean criminal record. These requirements effectively excluded thousands of Roma, turning formerly recognized citizens into stateless beings.

7. While Human Rights Advocates recognizes the right of all nations to determine their own residency requirements, we feel that the residency requirements developed by many countries in the post-communist era, although seemingly neutral on their face, have had a disparate impact on the Roma and thus have had the effect of disenfranchising the Roma completely from their former home countries. In September of 1999, the Czech Republic amended their 1993 Act and eliminated the "clean record" provision. However, the effects of the "old" law had a tremendous impact on disenfranchising Czech Roma, and combined with current racial violence has caused many Czech Roma to abandon their rights as citizens.

8. It is disheartening that many governments do not recognize or allow participation of Roma in any official capacity in governmental decisions concerning the welfare, political and social needs of the Romani population. Article 25 of the ICCPR recognizes every citizen's right and opportunity " to take part in the conduct of public affairs, directly or through freely chosen representatives." By denying Romani organizations and individuals the right to participate in public affairs, governments are violating the Roma right to representation and are in breach of the ICCPR.

9. Another aspect of Romani life that is adversely affected due to the Roma's disenfranchised state, is their right to education. Mr. Alvaro Gil Robles, Commissioner for Human Rights, noted in the provisional version of the General Report of the Political Declaration by Ministers of Council of Europe States in Strasbourg: "Historically there has been systematic discrimination against Rroma/gypsies, and discrimination against them today in many social and economic context is driving them into social exclusion. Access to education is vitally important here: it is the key in the Rroma/Gypsies progress towards equality."

10. Under Article 28(1) of the Convention for the Rights of the Child (CRC), State Parties recognize the right of the child to an education and in section 28(1)(e) agree to take measures to encourage regular attendance at schools and to reduce the drop out rates. However, according to statistics provided by the Ford Foundation, "eighty percent of the Roma children in the Czech Republic (and in other Central European countries), attend special schools for the mentally handicapped, a dead-end system that virtually guarantees their failure..."

11. By forcing these children to attend "special" and habitually substandard schools, European governments are not only violating the CRC, but are effectively eliminating any chance for a Romani child to achieve a future beyond manual labor and vocational work. For instance, the Human Rights Project, a Roma Rights organization from Bulgaria, noted that "[t]he low quality of the education that Romani children receive in these conditions, general discrimination, poverty,... and the differences in ethnic culture have all led to an avalanche growth of absenteeism and drop-out rate of Romani children from school before they have completed their secondary education."

12. In addition to discrimination in political and educational settings, the Roma also experience inordinate discrimination in the legal sphere. The Roma continue to be subjected to arbitrary and/or extended arrests, detentions and sentencing although numerous Articles in the ICCPR address the standards that are to be followed regarding these issues. For example, it has been found that Romani defendants arrested for alleged involvement in criminal activity are, on a per capita basis, more frequently detained prior to trial than non-Roma arrested for alleged involvement in similar crimes. These actions violate Article 9(1) of the ICCPR.

13. The Roma are also subjected to violence, and in some cases, torture by police officials. Police officials, who subject Roma prisoners or detainees to violence and or torture are rarely prosecuted. However, in May of 2000, the European Court, unanimously found the Bulgarian government guilty of violating Article 2 (the right to life) and Article 13 (the right to an effective remedy) under the European Convention on Human Rights, due to the brutal beating and death of a 49-year Romani man held in police custody. This ruling marked a significant milestone in the Roma fight for legal justice and equality.

## RECOMMENDATIONS

14. Human Rights Advocates believes that in order to end racial discrimination against the Roma and similarly disenfranchised people, governments must integrate the political and social organizations of these groups into their political systems. By allowing the voices of disenfranchised people to address their specific needs in society, governments will be better informed and more aware of the duties they need to perform to integrate such groups into government policies and laws.

15. To this effect, Human Rights Advocates recommends the following measures towards eliminating racial and ethnic discrimination against the Roma:

    - Although several countries are taking measures to integrate education, the state

of education for the Roma and other disenfranchised groups still remains inadequate. In regards to the Roma, possible solutions to this crisis could include:

1) Allowing the use of the Romani language in schools to aid Roma children in learning;
2) The integration of Romani History/Studies/Languages into primary, intermediate and University curricula and
3) The recruitment of Roma teachers in to primary, intermediate and university curricula.

- Violence by law enforcement officials against the Roma must be stopped, and to this effect should governments establish effective remedies for eliminating institutional racism and develop schema for punishing law enforcement officials who perpetrate racially-based discrimination, violence, or torture against Romani individuals and detainees. Victim compensation plans should also be developed.

- Human Rights Advocates also suggests that countries follow the recommendations of the Special Rapporteur On Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, in his report submitted pursuant to the Commission on Human Rights resolution 1998/26 as well as the recommendations in his addendum.

16. In addition, these recommended measures should be considered for other similarly disenfranchised groups.